

REMARKS

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the following remarks. Claims 1-11, 13, 14, 16-27, 29, 30, 32-36, and 38-41 have been examined with Claims 14, 30, and 39 being allowed.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-11, 13, 16-27, 29, 32-36, 38, and 40-41 under 35 U.S.C. §103(a) as being unpatentable over Yahiaoui et al. (PCT Publication No. WO 98/10134, hereinafter "Yahiaoui") is respectfully traversed.

Applicants' invention as recited in Claims 1, 17, and 32 requires a layer or substrate to include a pulp-based nonwoven web material treated with a density modulator or treatment *consisting essentially of an alkyl glycoside*. Each of these independent claims further requires that the treated layer or substrate increases in thickness by at least about 12% when the layer or substrate comes into contact with a blood-containing bodily fluid.

To establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference.

Yahiaoui does not disclose or suggest a density modulator or treatment consisting essentially of an alkyl glycoside applied to a pulp-based nonwoven web material. Instead, Yahiaoui requires a *combination of a surfactant and a viscosity modifier* applied to nonwoven substrate materials that are not primarily pulp-based, such as meltblown, spunbond, and bonded carded webs. The surfactant and viscosity modifier are combined prior to being applied to the substrate. The surfactant is applied to the substrate to increase the hydrophilicity. The viscosity modifier in Yahiaoui serves to reduce the viscosity of the surfactant and to maintain the durability of the surfactant on the substrate. Thus, there is a synergistic effect that results from the combination of the surfactant and the viscosity modifier that distinguishes this combination from either the surfactant per se or the viscosity modifier per se.

The transitional phrase “consisting essentially of” limits the scope of a claim to the specified materials or steps and those that do not materially affect the basic and novel characteristics of the claimed invention. Applicants’ Claims 1, 17, and 32 recite a density modulator or treatment *consisting essentially of an alkyl glycoside*. The Examiner states that Yahiaoui discloses a composition in which alkyl glycoside is present in amounts up to about 80% of the total composition weight, which meets the claimed limitation that the density modulator consists essentially of alkyl glycoside, according to the Examiner. However, the alkyl glycoside viscosity modifier and the surfactant work *together* in Yahiaoui such that the *individual* properties of alkyl glycoside recited in Applicants’ claims are not disclosed or suggested in Yahiaoui. Thus, the surfactant materially affects the basic and novel characteristics of the alkyl glycoside per se.

The Examiner further states that while Yahiaoui does not specifically disclose an increase in substrate thickness by at least 12% when the treated substrate is in contact with a blood-containing bodily fluid, it can be reasonably assumed that the density modulator of Yahiaoui would yield the same results as the claimed invention since the same substance and concentration taught by the claimed invention has been disclosed by Yahiaoui. To the contrary, Yahiaoui does not teach the same substance and concentration as recited in Applicants’ claimed invention, because Applicants’ recite a density modulator or treatment consisting essentially of an alkyl glycoside, whereas Yahiaoui fails to disclose or suggest a treatment that consists essentially of an alkyl glycoside. Instead, Yahiaoui discloses a combination of a viscosity modifier, such as alkyl glycoside, and a surfactant, such as a blend of ethoxylated castor oil and sorbitan monooleate. According to Yahiaoui, the alkyl polyglycoside reduces the viscosity and maintains the desirable durability of the surfactant.

Thus, the viscosity modifier affects the surfactant, and the combined viscosity modifier and surfactant affect the substrate, but there are no noted affects on the substrate from the viscosity modifier alone in Yahiaoui. More particularly, the combined surfactant and viscosity modifier in Yahiaoui are described as having the effect of providing durability of wettability, or the ability to withstand multiple

insults, for a substrate. Additionally, the combined surfactant and viscosity modifier in Yahiaoui provides a treatment having a suitably low viscosity. None of the attributes of the treatment in Yahiaoui suggest any effect on substrate thickness when in contact with a blood-containing bodily fluid.

Yahiaoui does not disclose or suggest any thickness-altering effects on a substrate treated with an alkyl glycoside in the absence of a surfactant. Furthermore, Yahiaoui does not disclose or suggest any thickness-altering effects of the treatment disclosed in Yahiaoui. Thus, there is no suggestion or motivation for a person skilled in the art to modify the teachings of Yahiaoui to apply an alkyl glycoside to a pulp-based substrate in the absence of a surfactant to achieve a thickness increase of the substrate when in contact with a blood-containing bodily fluid.

Based on the teachings of Yahiaoui, there would be no reasonable expectation of success for achieving a thickness increase of a pulp-based substrate upon contact with a blood-containing bodily fluid because Yahiaoui does not disclose or suggest such an effect and also does not disclose or suggest the application of a treatment consisting essentially of an alkyl glycoside to a pulp-based substrate, which, according to Applicants' invention, is used to achieve this effect.

Another requirement for establishing a *prima facie* case of obviousness is that the prior art reference must disclose or suggest all the claim limitations. Again, Yahiaoui does not disclose or suggest a treatment consisting essentially of an alkyl glycoside, or a treatment that causes a thickness increase of a substrate upon contact with a blood-containing bodily fluid.

Based on the teachings of Yahiaoui, absent impermissible hindsight, a person skilled in the art would not be motivated to apply a treatment consisting essentially of an alkyl glycoside to a pulp-based substrate to achieve a thickness increase by at least about 12% when in contact with a blood-containing bodily fluid.

For at least the reasons given above, Applicants respectfully submit that the teachings of Yahiaoui do not disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Allowable Subject Matter

The Examiner has indicated that Claims 14, 30, and 39 are allowed.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



Melanie I. Rauch
Registration No. 40,924

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60195
(847) 490-1400
FAX (847) 490-1403